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EPSTEIN BECKER & GREEN, P.C.
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Attorneys for Defendant,
BARNES GROUP INC.

ORIGINAL
FILED

AUG 24 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WHA

JOHN GALBRAITH,

Plaintiff,

v.

BARNES GROUP, INC., a Delaware
corporation, and DOES 1-50,

Defendants.

CASE NO.
C 07 4376

STATE COURT CASE NO:
RG 07-336397
(Superior Court of California,
County of Alameda)

**DEFENDANT'S NOTICE OF REMOVAL
OF ACTION UNDER 28 U.S.C. § 1441
(DIVERSITY)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant Barnes Group Inc. ("Barnes") hereby removes
to this Court the state court action described below.

1. On July 19, 2007, this action was commenced in the Superior Court in and for
the County of Alameda entitled John Galbraith v. Barnes Group Inc., a Delaware corporation,
designated as Case No. RG 07-3363975.

2. Plaintiff's Complaint contains three causes of action: (1) disparate treatment age
discrimination in violation of FEHA [Cal. Gov. Code § 12940 *et seq.*]; (2) disparate impact age
discrimination in violation of FEHA [Cal. Gov. Code § 12940 *et. seq.*]; and (3) unfair
competition-unfair and unlawful business practices [Business & Professions Code § 17200].

On July 25, 2007, Plaintiff served the Summons and Complaint on Barnes' agent for service of

1 process via certified mail. A true and correct copy of the Summons, Complaint, service of
2 process transmittal form and all papers served therewith, are attached hereto as Exhibit A. On
3 or about August 23, 2007, Defendant Barnes filed an Answer to the Complaint in Alameda
4 Superior Court; a true and correct copy of that Answer is attached hereto as Exhibit B. Barnes
5 is informed and believes, and thereon alleges, that other than the pleadings attached to this
6 Notice of Removal, there have been no further pleadings, process, or orders filed in this action.

7 3. Consistent with the allegations of the Complaint, Defendant Barnes is informed
8 and believes that Plaintiff John Galbraith is now, and was at the time this lawsuit was filed, a
9 citizen of the State of California, residing in a county in the State of California. Complaint, ¶ 3.

10 4. Defendant Barnes is now, and was at the time this lawsuit was filed, a citizen of
11 the States of Delaware and Connecticut, incorporated under the laws of the State of Delaware,
12 and having its principal place of business in Bristol, Connecticut. Complaint, ¶ 4. Accordingly,
13 Barnes is not a citizen of the state of California, where the state court action is pending. Barnes
14 is the only defendant named in this action.

15 5. While the Complaint does not specify the amount of damages Plaintiff seeks,
16 Defendant is informed and believes and thereon alleges that the amount in controversy exceeds
17 \$75,000.00. In his Complaint, Plaintiff alleges that he suffered economic damages for loss of
18 income, loss of earning capacity, and loss of employment benefits. In addition, he seeks mental
19 and emotional distress damages, punitive damages of an amount that "would be appropriate to
20 punish or set an example of Barnes Group" and recovery of attorneys' fees. He also seeks
21 injunctive relief that could result in additional costs to Barnes if relief is granted.

22 6. This is a civil action over which this Court has original jurisdiction under
23 28 U.S.C. § 1332, and is one which may be removed to this Court by Barnes pursuant to
24 provisions of 28 U.S.C. § 1441(b), because this is an action between citizens of different states
25 and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

26 7. Venue lies in the United States District Court for the Northern District of
27 California, pursuant to 28 U.S.C. §§ 1391(a) and 1441(b), because Plaintiff's state court
28

1 Complaint was filed in a California Superior Court within this District and this is the judicial
2 district in which the action arose. 28 U.S.C. § 84.

3 WHEREFORE Defendant Barnes prays that the above-referenced action be removed
4 from Alameda County Superior Court to this Court.

5 DATED: August 24, 2007

EPSTEIN BECKER & GREEN, P.C.

6
7 By:

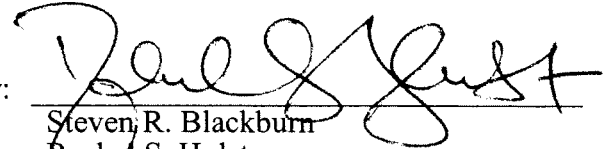
8 
Rachel S. Hulst
9 Attorneys for Defendant
BARNES GROUP INC.

EXHIBIT A



SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

BARNES GROUP, INC., a Delaware Corporation, and DOES 1-50

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
JOHN GALBRAITH, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
ALAMEDA COUNTY

JUL 19 2007

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es)

Alameda County Superior Court, 1225 Fallon St., Oakland, CA 94612

CASE NUMBER
Número del Caso: **07 - 336397**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es).

Brownstein Thomas, LLP, Mark C. Thomas (SBN 215580)
220 Montgomery St., Suite 876, San Francisco, CA 94104

[Signature] PAT S. SWEETEN
Deputy
(Adjunto)

DATE: JUL 19 2007
(Fecha)

Clerk, by [Signature] Deputy
(Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010))

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

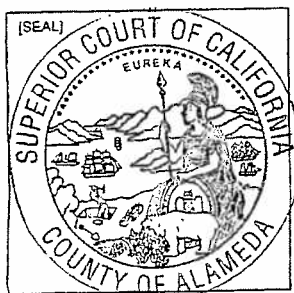
NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify).

3. ☐ on behalf of (specify).

- under: ☐ CCP 416 10 (corporation) ☐ CCP 416 60 (minor)
☐ CCP 416 20 (defunct corporation) ☐ CCP 416 70 (conservatee)
☐ CCP 416 40 (association or partnership) ☐ CCP 416 90 (authorized person)
☐ other (specify)

4. ☐ by personal delivery on (date):





BROWNSTEIN THOMAS, LLP
 MARK C. THOMAS SBN: 215580
 220 Montgomery Street, Suite 876
 San Francisco, CA 94104
 Telephone: 415-951-4878
 Facsimile: 415-951-4885

Attorneys for Plaintiff
 John Galbraith

FILED
 ALAMEDA COUNTY

JUL 19 2007

CLERK OF THE SUPERIOR COURT
 By [Signature] Deputy

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ALAMEDA
 UNLIMITED JURISDICTION

BY FAX

JOHN GALBRAITH, an individual,

Plaintiff,

vs.

BARNES GROUP, INC., a Delaware
 Corporation, and DOES 1-50,

Defendants

Case No. **RG 07 - 336397**

**COMPLAINT FOR DISPARATE
 TREATMENT AGE DISCRIMINATION
 (Gov't Code §§ 12940 et seq); DISPARATE
 IMPACT AGE DISCRIMINATION (Gov't
 Code §§ 12940 et seq.); UNFAIR AND
 UNLAWFUL BUSINESS PRACTICES
 (Bus. & Prof. Code. §§ 17200, et seq.)**

DEMAND FOR JURY TRIAL

Plaintiff John Galbraith (hereinafter "Plaintiff" or "Galbraith"), an individual, through his attorneys of record, hereby alleges and complains on information and belief as follows:

JURISDICTION AND VENUE

1. The Alameda County Superior Court has jurisdiction in this matter due to the alleged violations of the California Government Code, and Business & Professions Code, and because the wrongful acts alleged against defendants occurred in the state of California.

2. Venue as to each defendant is proper in this judicial district, pursuant to California Code of Civil Procedure Sections 395(a) and 395.5, and Business & Professions Code Section 17203. Each defendant either maintains an office, transacts business, has an

1 agent, or is found in the County of Alameda, and each defendant is within the jurisdiction of
2 this Court for the purposes of service of process.

3 PARTIES

4 3. Galbraith is an individual over the age of eighteen (18) and is now, and
5 at all times mentioned in this Complaint, was a resident of California.

6 4. Defendant Barnes Group Inc. (hereinafter "Barnes Group") is a
7 Delaware corporation authorized to conduct business in California.

8 5. Plaintiff is ignorant of the true names and capacities of defendants sued
9 herein as DOES 1-50 and therefore sues these defendants by such fictitious names. Plaintiff
10 will amend this Complaint to allege their true names and capacities when ascertained.
11 Plaintiff is informed and believes and thereon alleges that each of these fictitiously named
12 defendants is in some manner responsible in some manner for the occurrences herein alleged
13 and that Plaintiff's injuries as herein alleged were proximately caused by the aforementioned
14 defendants.

15 6. At all relevant times each of the defendants was the agent, employee,
16 partner, joint venturer, of each of the remaining defendants, in doing the things hereinafter
17 alleged they were acting within the course and scope of such agency, employment,
18 partnership, and joint venture, and, they authorized, ratified, aided, abetted, encouraged, and
19 counseled the doing of the things hereinafter alleged.

20 GENERAL ALLEGATIONS

21 7. Galbraith started his career with Barnes Group in May of 1986.
22 Although he had different titles throughout his career, Galbraith's role was an outside sales
23 person. His primary job duties were to sell Barnes Group's products to customers in his
24 territory. Galbraith was an excellent sales representative. He was frequently one of the top
25 sales persons in his territory.

26 8. In or around 2004, Barnes Group changed its compensation plan for
27 Sales Representatives. Under the previous compensation plan, Sales Representatives were
28 paid solely on commissions. Barnes Group changed the compensation plan to pay new Sale

1 Representatives on a salary basis with an opportunity to earn a bonus. Generally speaking,
2 Sales Representatives paid on the new salary compensation plan earned less than Sales
3 Representatives who were on commission compensation plan.

4 9. To reduce costs, the Barnes Group adopted a practice and policy of
5 terminating employees who were on the commission plan. This practice and policy had a
6 disproportionate impact on older workers because most of the older workers were on the
7 commission plan.

8 10. On or around July 31, 2006, after over twenty (20) years of service,
9 Galbraith was terminated. The Barnes Group's alleged reason for terminating Galbraith was
10 that he was improperly competing with the Barnes Group. The Barnes Group's reason for
11 terminating Galbraith, however, was nothing more than a pretext to discriminate against
12 Galbraith because of his age.

13 11. As a result of Defendant's unlawful employment practices, Galbraith
14 has suffered and will continue to suffer loss of income, loss of earning capacity, loss of
15 employment benefits, mental and emotional distress, and other damages in an amount
16 according to proof.

17 12. Galbraith has exhausted all administrative prerequisites to filing this
18 lawsuit. A true and correct copy of the right to sue is attached hereto as Exhibit A.

19 **FIRST CAUSE OF ACTION**

20 **DISPARATE TREATMENT**

21 **AGE DISCRIMINATION IN VIOLATION OF FEHA**

22 **(Government Code § 12940 *et seq.*)**

23 13. Galbraith incorporates herein each of the foregoing paragraphs as
24 though fully set forth herein.

25 14. At all relevant times, Galbraith was over forty (40) years old and a
26 member of a protected class as defined by the FEHA.

27 15. Galbraith was competently performing his duties as a Sales
28 Representative. Nevertheless, Galbraith was terminated because of his age.

1 16. As a result of Defendant's unlawful employment practices, Galbraith
2 has suffered and will continue to suffer loss of income, loss of earning capacity, loss of
3 employment benefits, mental and emotional distress, and other damages in an amount
4 according to proof.

5 17. In discriminating against Galbraith as described herein, Barnes Group
6 acted with oppression, fraud and malice, in conscious derogation of Galbraith's rights under
7 applicable law. Galbraith is entitled to punitive damages in an amount to be determined at
8 trial, which amount would be appropriate to punish or set an example of Barnes Group.

9 WHEREFORE, Plaintiff prays for relief as set forth below.

10 **SECOND CAUSE OF ACTION**

11 **DISPARATE IMPACT**

12 **AGE DISCRIMINATION IN VIOLATION OF FEHA**

13 **(Government Code § 12940 *et seq.*)**

14 18. Galbraith incorporates herein each of the foregoing paragraphs as
15 though fully set forth herein.

16 19. At all relevant times, Galbraith was over forty (40) years old and a
17 member of a protected class as defined by the FEHA.

18 20. In or around 2004, Barnes Group changed its compensation plan for
19 Sales Representatives. Under the previous compensation plan, Sales Representatives who
20 were paid solely on commissions. Barnes Group changed the compensation plan to place
21 new Sales Representatives on a salary with an opportunity to earn a bonus. Plaintiff is
22 informed and believes and on that basis alleges that Sales Representatives who were on
23 salary earned less than Sales Representatives who were on commission.

24 21. To reduce costs, Barnes Group began to terminate employees on the
25 commission compensation plan. Barnes Group's practice and/or policy of terminating
26 employees who were on the commission plan had a disproportionate impact on older
27 workers.
28

22. Galbraith was harmed by this practice because he was terminated in part because of he was on the commission compensation plan. Defendant's practices were a substantial factor in causing Plaintiff's injuries.

23. As a result of Defendant's unlawful employment practice, Galbraith has suffered and will continue to suffer loss of income, loss of earning capacity, loss of employment benefits, mental and emotional distress, and other damages in an amount according to proof.

24. In discriminating against Galbraith as described herein, Barnes Group acted with oppression, fraud and malice, in conscious derogation of Galbraith's rights under applicable law. Galbraith is entitled to punitive damages in an amount to be determined at trial, which amount would be appropriate to punish or set an example of Barnes Group.

WHEREFORE, Plaintiff prays for relief as set forth below.

THIRD CAUSE OF ACTION

UNFAIR COMPETITION – UNFAIR AND UNLAWFUL BUSINESS PRACTICES

(Business & Professions Code § 17200)

25. Galbraith incorporates herein each of the foregoing paragraphs as though fully set forth herein.

26. Business & Professions Code § 17200, *et seq.*, the Unfair Competition Law ("UCL"), defines unfair competition to include, *inter alia*, any unfair or unlawful business act or practice. The UCL provides that a Court may enjoin acts of unfair competition, and order restitution to affected members of the public.

27. During the four years preceding the filing of this complaint, Defendant has committed acts of unfair competition proscribed by Business and Professions Code §17200, *et seq.*, including the practices alleged herein.

28. As more fully set out above, Defendant has engaged in the following unfair and/or unlawful acts and practices:

- (a) Defendant has discriminated against Plaintiff because of his age in violation of California Government Code § 12940 *et seq.*; and

(b) Defendant has adopted a policy and/or practice which has a disproportionate impact against older workers in violation of California Government Code § 12940 *et seq.*

29. The business acts and practices of Defendant as hereinabove alleged constitute unfair and/or unlawful business practices in that, for the reasons set forth above, said acts and practices violate explicit provisions of the Government Code. Defendant has obtained a significant competitive advantage, and engaged in unfair competition, through its acts and practices of terminating older employees.

30. The unfair and unlawful business acts and practices of Defendant described herein present a continuing threat to members of the general public in that Defendant is currently engaging in such acts and practices, and will persist and continue to do so unless and until an injunction is issued by this Court. Plaintiff requests that such injunction be issued.

31. Plaintiff further requests an award of attorneys' fees, costs, and expenses incurred in the filing and prosecution of this action, pursuant to Code of Civil Procedure § 1021.5.

WHEREFORE, Plaintiff prays for relief as set forth below.

JURY TRIAL DEMAND

32. Galbraith hereby demands a jury trial with respect to all causes of action set forth herein, and all issues raised hereby.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against defendant herein as follows:

1. Compensatory damages in an amount to be proven at a trial by jury.
2. Exemplary and punitive damages in an amount sufficient to punish Defendant and make an example out of it.
3. Plaintiff's taxable costs and expenses of litigation including, but not limited to, attorneys' fees pursuant to statutory and common law.
4. Injunctive relief.

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EXHIBIT A

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1515 Clay Street, Suite 701, Oakland, CA 94612
(510) 622-2941 TTY (800) 700-2320 Fax (510) 622-2951
www.dfeh.ca.gov



May 31, 2007

MARK C. THOMAS
Attorney
BROWNSTEIN THOMAS, LLP
220 Montgomery St. Suite 876
San Francisco, CA 94104

RE: E200607M1526-00-ac
GALBRAITH/BARNES DISTRIBUTION, INC.

Dear MARK C. THOMAS:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 29, 2007 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

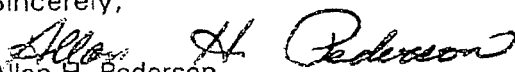
This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,


Allan H. Pederson
District Administrator

cc: Case File

MATT DIEKENS
District Manager
BARNES DISTRIBUTION, INC.
1301 E. 9th Street Ste. 700
Cleveland, OH 44114

DFEH-200-43 (06/06)

23 07 05:56a
May. 22. 2007 10:29AM

p. 1

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACTDFEH # E-200607-M-1526-00-ac
DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) MR JOHN GALBRAITH TELEPHONE NUMBER (INCLUDE AREA CODE) 510-908-5305

ADDRESS 543 W JAUNA Ave Alameda COUNTY Alameda COUNTY CODE 0501

CITY/STATE/ZIP SAN LEANDRO CA 94577

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME: NAME BARNES DISTRIBUTION TELEPHONE NUMBER (Include Area Code) _____

ADDRESS 1301 E 9th St #700 DFEH USE ONLY

CITY/STATE/ZIP CLEVELAND, OHIO 44114 COUNTY _____ COUNTY CODE _____

NO. OF EMPLOYEES/MEMBERS (if known) 6,000 DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) 7/31/06 RESPONDENT CODE _____

THE PARTICULARS ARE:

On 7/31/06 I was ☒ fired ☐ denied employment ☐ denied family or medical leave
☐ laid off ☐ denied promotion ☐ denied pregnancy leave
☐ demoted ☐ denied transfer ☐ denied equal pay
☐ harassed ☐ denied accommodation ☐ denied right to wear pants
☐ genetic characteristics testing ☐ impermissible non-job-related inquiry ☐ denied pregnancy accommodation
☐ forced to quit ☐ other (specify) _____

by MATT DICKENS, DISTRICT MANAGER
 Name of Person Job Title (supervisor/manager/personnel director/etc.)

because of my: ☒ sex ☐ national origin/ancestry ☐ physical disability ☐ cancer
☐ age ☐ marital status ☐ mental disability ☐ genetic characteristic
☐ religion ☐ sexual orientation ☐ other (specify) _____
☐ race/ethnicity ☐ association ☐ other (specify) _____

the reason given by MATT DICKENS, DISTRICT MANAGER
 Name of Person and Job Title

Was because
of [please
state what
you believe to
be reason(s)]

violating/ competing with employer

My AGE (55)

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 5/17/07

COMPLAINANT'S SIGNATURE

At SAN FRANCISCO

City

RECEIVED

DATE FILED: May 29, 2007

MAY 29 2007

STATE OF CALIFORNIA

DFEH-300-03 (01/05)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSINGDepartment of Fair
Employment and Housing
Oakland District Office

To: MAP
Sg 7/26/07**NATIONAL REGISTERED AGENTS, INC.****SERVICE OF PROCESS SUMMARY TRANSMITTAL FORM**

To: MONIQUE B. MARCHETTI
BARNES GROUP, INC.
123 MAIN STREET
BRISTOL, CT 06010-6307

SOP Transmittal # CA50369

MONIQUE B. MARCHETTI(800) 767-1553 - Telephone
(609) 716-0820 - Fax

JUL 26 2007

Defendant: BARNES GROUP INC.
(Entity Served)

RECEIVED

Enclosed herewith are legal documents received on behalf of the above captioned entity by National Registered Agents, Inc. or its Affiliate in the State of CALIFORNIA on this 25 day of July, 2007. The following is a summary of the document(s) received:

1. **Title of Action:** John Galbraith v. Barnes Group, Inc., et al.

2. **Document(s) served:**

<input checked="" type="checkbox"/> Summons	<input type="checkbox"/> Subpoena	<input type="checkbox"/> Injunction
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Third Party Complaint	<input type="checkbox"/> Notice of
<input type="checkbox"/> Petition	<input type="checkbox"/> Demand for Jury Trial	<input type="checkbox"/> Mechanics Lien
<input type="checkbox"/> Garnishment	<input type="checkbox"/> Default Judgement	<input type="checkbox"/> Other:

3. **Court of Jurisdiction/** Alameda County Superior Court
Case & Docket Number: RC 07-336397

4. **Amount Claimed, if any:** Please See Attached

5. **Method of Service (select one):**

<input type="checkbox"/> Personally served by:	<input type="checkbox"/> Process Server	<input type="checkbox"/> Deputy Sheriff	<input type="checkbox"/> U. S Marshall
<input checked="" type="checkbox"/> Delivered Via:	<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Regular Mail	<input type="checkbox"/> Facsimile
	(Envelope enclosed)	(Envelope enclosed)	
<input type="checkbox"/> Other (Explain):			

6. **Date and Time of Service:** 7/25/2007 4:44:59 PM PST (GMT -8)

7. **Appearance/Answer Date:** 30 Days

8. **Plaintiff's Attorney:** Mark C. Thomas
(Name, Address & Telephone Number) Brownstein Thomas, LLP
220 Montgomery Street, Suite 876
San Francisco, CA 94104

9. **Federal Express Airbill #** 790300057141

10. **Call Made to:** VM - MONIQUE B. MARCHETTI

11. **Special Comments:**

NATIONAL REGISTERED AGENTS, INC.

Copies To:

Transmitted by: Dena LaPorta

The information contained in this Summary Transmittal Form is provided by National Registered Agents, Inc. for informational purposes only and should not be considered a legal opinion. It is the responsibility of the parties receiving this form to review the legal documents forwarded and to take appropriate action.

ORIGINAL

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
Brownstein Thomas, LLP Mark C. Thomas (SBN 215580) 220 Montgomery St., Suite 876 San Francisco, CA 94104		
TELEPHONE NO.: 415.951.4878	FAX NO. (Optional): 415.951.4885	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name): Plaintiff John Galbraith		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Galbraith		
DEFENDANT/RESPONDENT: Barnes Group, Inc., et al		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL		CASE NUMBER: RG07336397

TO (insert name of party being served): Barnes Group, Inc.

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: 7.23.2007

Mark C. Thomas.

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of **(to be completed by sender before mailing)**:

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify):

Notice of Case Management Conference and Order, Notice of Judicial Assignment, ADR Information Package, Stamped Return Envelope

(To be completed by recipient):

Date this form is signed:

monique B. Marchetti

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

5716274

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Brownstein Thomas, LLP Mark C. Thomas (SBN 215580) 220 Montgomery St., Suite 876 San Francisco, CA 94104 TELEPHONE NO: 415.951.4878 FAX NO: 415.951.4885 ATTORNEY FOR (Name): Plaintiff John Galbraith		FOR COURT USE ONLY FILED ALAMEDA COUNTY JUL 19 2007 CLERK OF THE SUPERIOR COURT By <u>[Signature]</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda County Superior Court STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
CASE NAME: Galbraith v. Barnes Distribution, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
CASE NUMBER: RG 07 - 336397 JUDGE: DEPT:		

Items 1-6 below must be completed (see instructions on page 2).

1 Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3 740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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- 2 This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
- 3 Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
- 4 Number of causes of action (specify): 3
5. This case ☐ is ☒ is not a class action suit
6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015.)

Date: 7.19.2007

Mark C. Thomas

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code) (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only

Page 1 of 2

CIVIL CASE COVER SHEET

Unified Rules of the Superior Court of California, County of Alameda

F. ADDENDUM TO CIVIL CASE COVER SHEET

Short Title:
Galbraith v. Barnes Group, Inc.

Case Number:

CIVIL CASE COVER SHEET ADDENDUM

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

[] Hayward Hall of Justice (447)
 [X] Oakland, Rene C. Davidson Alameda County Courthouse (446) [] Pleasanton, Gale-Schenone Hall of Justice (448)

Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	[] 34 Auto tort (G) Is this an uninsured motorist case? [] yes [] no
Other PI / PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	[] 75 Asbestos (D) [] 89 Product liability (not asbestos or toxic tort/environmental) (G) [] 97 Medical malpractice (G) [] 33 Other PI/PD/WD tort (G)
Non - PI / PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	[] 79 Bus tort / unfair bus. practice (G) [] 80 Civil rights (G) [] 84 Defamation (G) [] 24 Fraud (G) [] 87 Intellectual property (G) [] 59 Professional negligence - non-medical (G) [] 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	[X] 38 Wrongful termination (G) [] 85 Other employment (G) [] 53 Labor comm award confirmation [] 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wmty (06) Collections (09) Insurance coverage (18) Other contract (37)	[] 04 Breach contract / Wmty (G) [] 81 Collections (G) [] 86 Ins coverage - non-complex (G) [] 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	[] 18 Eminent domain / Inv Cdm (G) [] 17 Wrongful eviction (G) [] 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	[] 94 Unlawful Detainer - commercial [] 47 Unlawful Detainer - residential [] 21 Unlawful detainer - drugs Is the deft. in possession of the property? [] Yes [] No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	[] 41 Asset forfeiture [] 62 Pet. re: arbitration award [] 49 Writ of mandate Is this a CEQA action (Publ. Res. Code section 21000 et seq) [] Yes [] No [] 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	[] 77 Antitrust / Trade regulation [] 82 Construction defect [] 78 Claims involving mass tort [] 91 Securities litigation [] 93 Toxic tort / Environmental [] 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	[] 19 Enforcement of judgment [] 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	[] 90 RICO (G) [] 88 Partnership / Corp. governance (G) [] 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	[] 06 Change of name [] 69 Other petition

Superior Court of California, County of Alameda



Notice of Judicial Assignment for All Purposes

Case Number: RG07336397
Case Title: Galbraith VS Barnes Group, Inc.
Date of Filing: 07/19/2007

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This case is hereby assigned for all purposes to:

Judge:	Steven A. Brick
Department:	139
Address:	Allen E. Broussard Justice Center 600 Washington Street Oakland CA 94607
Phone Number:	(510) 268-2984
Fax Number:	(510) 267-1523
Email Address:	Dept.139@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure §170.6 must be exercised within the time period provided by law. (See Govt. Code 68616(i); Motion Picture and Television Fund Hosp. v. Superior Court (2001) 88 Cal.App.4th 488, 494; and Code Civ. Proc. §1013.)

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

General Procedures

All pleadings and other documents must be filed in the clerk's office at any court location except when the Court permits the lodging of material directly in the assigned department. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE Steven A. Brick
DEPARTMENT 139

Counsel are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at:

<http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

The parties are always encouraged to consider using various alternatives to litigation, including mediation and arbitration, prior to the Initial Case Management Conference. The Court may refer parties to alternative dispute resolution resources.

(1) Unrepresented litigants must also comply with pertinent rules, cited above. The Court maintains a Self-Help Center at the Wiley W. Manuel Courthouse, 2nd Floor, 661 Washington St., Oakland. Telephone. (510) 268-7221. (2) Counsel are expected to be familiar and comply with the Statement of Professionalism and Civility, Alameda County Bar Association www.acbanet.org (click on link at the bottom of the home page). (3) Appearances by attorneys who are not counsel of record are not permitted except for good cause. (4) Except when requested in a particular case, chambers copies of filings are not necessary.

Schedule for Department 139

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions. Contacts with Dept. 139 should be by email with copies to all counsel after conferring about proposed dates.

- Trials generally are held: Unless otherwise advised, Mondays through Fridays, 8:30 a.m. to 1:30 p.m. with two morning breaks. A pretrial conference may be scheduled 2 to 3 weeks before trial at 2:00 p.m. on a Friday.
- Case Management Conferences are held: Mondays through Thursdays at 3:00 p.m. Timely filed and complete case management conference statements may obviate the need for in person conferences. Check the Register of Actions on Domain 3 days in advance.
- Law and Motion matters are heard: Wednesdays and Thursdays at 3:00 p.m. (maximum 5 each). Email Dept. 139 to obtain a reservation. Limited hearings are available for summary judgments, preliminary injunctions and other time intensive motions.
- Settlement Conferences are heard: Unless otherwise advised, Mondays and Tuesdays at 3:00 p.m.
- Ex Parte matters are heard: Tuesdays and Thursdays at 3:00 p.m. Email dept 139 to obtain a reservation on these calendars or to specially set a time sensitive emergency matter.
- (1) Counsel should consider and recommend creative, efficient approaches to valuing and resolving their case (CRC §3.724). (2) Potential discovery and other problems should be anticipated and discussed. (3) No discovery motion shall be filed without prior serious efforts to resolve it. If unsuccessful, Moving party may then email the Court attaching a letter (max 3 pages) outlining the dispute. Opposing party may email a brief response within 24 hours. The Court will advise the parties how the issue will be resolved.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations
Email: Dept.139@lameda.courts.ca.gov

- Ex Parte Matters
Email: Dept.139@lameda.courts.ca.gov

Tentative Rulings

The court will issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: <http://www.alameda.courts.ca.gov/courts/DomainWeb>, Calendar Information for Dept. 139
- Cases Assigned to Judge Burr, Tentative Ruling Line before July 1, 2007: (510) 208-4931
- Cases Assigned to Judge Miller, Tentative Ruling Line before July 1, 2007: (510) 690-2709
- All cases, Tentative Ruling Line after July 1, 2007: 1-866-223-2244

Dated: 07/20/2007

Executive Officer / Clerk of the Superior Court

By



Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on

the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 07/23/2007

By

 digital

Deputy Clerk

ALTERNATIVE DISPUTE RESOLUTION
INFORMATION PACKAGE
Effective April 15, 2005

Instructions to Plaintiff / Cross-Complainant

In all general civil cases filed in the trial courts after June 30, 2001, the plaintiff is required to serve a copy of this ADR information package on each defendant.

California Rules of Court, Rule 201.9 (Excerpt)

(a) Each court must make available to the plaintiff, at the time of filing of the complaint, an Alternative Dispute Resolution (ADR) information package that includes, at a minimum, all of the following:

(1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes . . .

(2) Information about the ADR programs available in that court . . .

(3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA . . .

(4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) Court may make package available on Web site . . .

(c) The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action along with the cross-complaint.

GENERAL INFORMATION ABOUT ADR

Introduction to Alternative Dispute Resolution

Did you know that most civil lawsuits settle without a trial? And did you know that there are a number of ways to resolve civil disputes without having to sue somebody? These alternatives to a lawsuit are known as alternative dispute resolution (also called ADR). The most common forms of ADR are mediation, arbitration, and neutral evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. In mediation, for example, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through court-connected and community dispute resolution programs and private neutrals.

Advantages of Alternative Dispute Resolution

ADR can have a number of advantages over a lawsuit:

- **ADR can be speedier.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money.** Court costs, attorney fees, and expert witness fees can be saved.
- **ADR can permit more participation.** With ADR, the parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- **ADR can be flexible.** The parties can choose the ADR process that is best for them.
- **ADR can be cooperative.** In mediation, for example, the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- **ADR can reduce stress.** There are fewer, if any, court appearances. And because ADR can be speedier, cheaper, and can create an atmosphere in which the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute instead of filing a lawsuit. Even when a lawsuit has been filed, ADR can be used before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

Disadvantages of Alternative Dispute Resolution

ADR may not be suitable for every dispute.

If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure and review for legal error by an appellate court.

There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

The neutral may charge a fee for his or her services.

If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Lawsuits must be brought within specified periods of time, known as statutes of limitations. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

Three Common Types of Alternative Dispute Resolution

This section describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

Mediation

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved; the parties do.

Mediation is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Mediation also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how they each see things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or has unequal bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

Arbitration

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records) rather than by testimony.

There are two kinds of arbitration in California: (1) Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and is normally binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. (2) "Judicial arbitration" takes place within the court process and is not binding unless the parties agree at the outset to be bound. A party to this kind of arbitration who does not like a judicial arbitration award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to decide on the outcome of their dispute themselves.

Neutral Evaluation

In evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments and makes an evaluation of the case. Each party gets a chance to present his or her side and hear the other side. This may lead to a settlement or at least help the parties prepare to resolve the dispute later on. If the neutral evaluation does not resolve the dispute, the parties may go to court or try another form of ADR.

Neutral evaluation, like mediation, can come early in the dispute and save time and money.

Neutral evaluation is most effective when a party has an unrealistic view of the dispute, when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Neutral evaluation may not be a good idea when it is too soon to tell what the case is worth or if the dispute is about something besides money, like a neighbor playing loud music late at night.

Other Types of Alternative Dispute Resolution

There are several other types of ADR besides mediation, arbitration, and neutral evaluation. Some of these are conciliation, settlement conferences, fact-finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR methods. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

The selection of a neutral is an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

You may wish to seek the advice of an attorney about your legal rights and other matters relating to the dispute.

Help Finding an Alternative Dispute Resolution Provider in Your Community

To locate a dispute resolution program or private neutral in your community:

- **Visit the Court's Web site.** The Alameda County Superior Court maintains a list of court-connected mediators, neutral evaluators, and private arbitrators at <http://www.co.alameda.ca.us/courts/adr.htm>.
- **Contact the Small Claims Court Legal Advisor.** The small claims legal advisor for Alameda County is located at the Wiley W. Manuel Courthouse, Self-Help Center. The phone number is 510-268-7665.
- **Visit the California Department of Consumer Affairs' Web site.** The Department of Consumer Affairs (also called the DCA) has posted a list of conflict resolution programs throughout the state. The list can be found at http://www.dca.ca.gov/r_r/mediat1.htm

You can also call the Department of Consumer Affairs, Consumer Information Center, at 800-952-5210.

- **Contact your local bar association.** You can find a list of local bar associations in California on the State Bar Web site at <http://www.calbar.org/2lin/2bar.htm>.

If you cannot find a bar association for your area on the State Bar Web site, check the yellow pages of your telephone book under "Associations."

- **Look in the yellow pages of your telephone book under "Arbitrators" or "Mediators."**
- **Automotive Repair, Smog Check:** The California Bureau of Automotive Repair (also known as BAR) offers a free mediation service for consumers who are dissatisfied with an auto repair or a smog check, or who dispute an invoice for such services. BAR registers and regulates California automotive repair facilities and licenses smog, lamp, and brake inspection stations. Learn more at <http://smogcheck.ca.gov/smogweb/geninfo/otherinfo/mediation.htm> or call 800-952-5210.
- **Attorney Fees:** The State Bar of California administers a mandatory fee arbitration program to resolve attorney fee disputes between lawyers and their clients. The program is an informal, low-cost forum and is mandatory for a lawyer if a client requests it. Mediation of attorney fees disputes may also be available in some areas of California. Learn more at <http://www.calbar.org/2bar/3arb/3arbndx.htm> or call 415-538-2020.

DISPUTE RESOLUTION PROGRAMS IN ALAMEDA COUNTY

Mediation Services

222278 Redwood Road, Castro Valley, CA 94546

Phone: (510) 733-4940 fax: (510) 733-4945

Provides a panel of mediators to assist in the process of reaching an agreement in the areas of Neighborhood Disputes, Child Custody, Divorce, Parent/Teen Conflicts, Home Owners Association, Business, Real Estate, Employer/Employee, and Fremont Rent Increases.

East Bay Community Mediation

1968 San Pablo Avenue, Berkeley, CA 94702-1612

Phone: (510) 548-2377 fax: (510) 548-4051

EBCM is a community-based mediation program created by the union of Berkeley Dispute Resolution Service and Conciliation Forums of Oakland. EBCM offers counseling on options and approaches to resolving a dispute, mediation, large-group conflict facilitation, and conflict resolution skills workshops.

Catholic Charities of the East Bay: Oakland - Main Office

433 Jefferson Street, Oakland, CA 94607

Phone: (510) 768-3100 fax: (510) 451-6998

Mediators are responsible for mediation sessions involving the youth, victim and family members to work towards a mutually agreeable restitution agreement. Also provide free workshops in anger management and mediation.

Center for Community Dispute Settlement

1789 Barcelona Street, Livermore, CA 94550

Phone: (925) 373-1035

Provides services in Tri-Valley for all of Alameda County. Program goals are to increase the number of court cases resolved, mediating small claims cases four days per week, and training youth in listening and conflict resolution skills.

California Lawyers for the Arts: Oakland Office

1212 Broadway Street, Suite 837, Oakland, CA 94612

Phone: (510) 444-6351 fax: (510) 444-6352

This program increases the resolution of arts related disputes such as artistic control, ownership of intellectual property, credit for work performed or produced and contract issues, through the use of alternative dispute resolution. It also increases the capacity to provide services for counseling, conciliation and administration of mediation, arbitration and meeting facilitation.

ALAMEDA COUNTY SUPERIOR COURT ADR PROGRAM

ADR Program Administrator

Pursuant to California Rule of Court 1580.3, the presiding judge of the Superior Court of California, County of Alameda has designated Benjamin D. Stough, Berkeley Trial Court Administrator, to serve as ADR program administrator.

A Plaintiff may elect, the parties may stipulate or a judge may refer a case to Judicial Arbitration. The Judicial Arbitration Program Coordinator may be contacted at (510) 670-6646.

The Judicial Arbitration Process

Appointment of Arbitrator (must be appointed within 30 days after referral per CRC 1605).

⇒ Parties mailed list of five names from which to select. (List mailed within 5-10 business days after receipt of referral).

⇒ Each party may reject one of the names listed (10 calendar days per *CRC 1605a*)

⇒ The administrator randomly appoints the arbitrators from the names remaining on the list. If only one remains then is deemed appointed.

Assignment of Case (CRC 1605a(4))

⇒ Within 15 days of notice of the appointment, the arbitrator shall contact parties in writing about time, date, and place of the hearing. The parties shall receive at least 30 days notice prior to the hearing.

Hearings (CRC 1611)

⇒ Shall be scheduled so as to be completed not less than 35 days nor more than 90 days from the date the arbitrator was assigned. For good cause shown, the case may be continued an additional 90 days by the Case Management Judge.

Award of Arbitrator (CRC 1615b & c)

⇒ Arbitrator must file an award within 10 days after conclusion of the arbitration hearing. The court may allow 20 additional days upon application of arbitrator in cases of unusual length or complexity.

⇒ Within 30 days of the filing of the award the parties may file a Request for Trial de Novo. The clerk shall enter the award as a judgment after 30 days provided a Trial de Novo has not been filed.

Return of Case to Court

⇒ Upon Filing of Trial de Novo the action is returned to Case Management Judge for further proceedings. (*CRC 1616 & Local Rule 6.4*)

⇒ If Trial de Novo is not filed then judgment is entered and the Case Management Judge is notified (*CRC 1615c & Local Rule 6.6*)

⇒ If parties indicate a settlement then case is returned to Case Management Judge and case is continued 45 days for an Order to Show Cause RE filing a dismissal. (*Local Rule 6.6*)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94707	<input type="checkbox"/> Berkeley Courthouse 2000 Center Street, 2 nd Fl., Berkeley, CA 94704	<input type="checkbox"/> George E. McDonald Hall of Justice 2233 Shoreline Drive, Alameda, CA 94501
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA 94538	<input type="checkbox"/> Gale/Schenone Hall of Justice 5672 Stoneridge Drive, Pleasanton, CA 94588	<input type="checkbox"/> Wiley W. Manuel Courthouse 551 Washington Street, Oakland, CA 94607
<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544	<input type="checkbox"/> René C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	

Plaintiff

Case No.: _____

vs.

STIPULATION FOR ALTERNATIVE
DISPUTE RESOLUTION (ADR)

Defendant

The parties by and through their attorneys of record hereby stipulate to submit the within
controversy to the following Alternative Dispute Resolution process:

ORDER

The foregoing stipulation having been read and considered, and good cause appearing, now therefore,
IT IS SO ORDERED.

IT IS FURTHER ORDERED that the matter be set for Order to Show Cause Hearing RE:

Dismissal on _____ at _____ a.m./p.m. in Department _____

Dated: _____

JUDGE OF THE SUPERIOR COURT

(SEAL)

Brownstein Thomas LLP
 Attn: Thomas, Mark C.
 220 Montgomery Street
 Suite 876
 San Francisco, CA 94104

Superior Court of California, County of Alameda

Galbraith

Plaintiff/Petitioner(s)
 VS.

Barnes Group, Inc.

Defendant/Respondent(s)
 (Abbreviated Title)

No. RG07336397

NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 12/03/2007 Time: 03:00 PM	Department: 139 Location: Allen E. Broussard Justice Center Fifth Floor 600 Washington Street, Oakland CA 94607 Internet: http://www.alameda.courts.ca.gov	Judge: Steven A. Brick Clerk: Lynette Rushing Clerk telephone: (510) 268-2984 E-mail: Dept.139@alameda.courts.ca.gov Fax: (510) 267-1523
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ORDERS

1. You must:
 - a. **Serve** all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. **Give notice** of this conference to any party not included in this notice and file proof of service;
 - c. **Meet and confer**, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
 - d. **File and serve** a completed Case Management Conference Statement (use of Judicial Council Form CM 110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)
2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.
3. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

*Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 07/23/2007.

By

 digital

Deputy Clerk

Brownstein Thomas LLP
 Attn: Thomas, Mark C.
 220 Montgomery Street
 Suite 876
 San Francisco, CA 94104

Superior Court of California, County of Alameda

Galbraith

Plaintiff/Petitioner(s)

VS.

Barnes Group, Inc.

Defendant/Respondent(s)

(Abbreviated Title)

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ORDERS

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 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

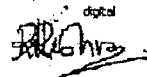
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CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 07/23/2007.

By



Deputy Clerk

EXHIBIT B

ENDORSED
FILED
ALAMEDA COUNTY

AUG 23 2007

CLERK OF THE SUPERIOR COURT

By KMEL DHILLON Deputy

1 Steven R. Blackburn, Esq., State Bar No. 154797
2 Rachel S. Hulst, Esq., State Bar No. 197330
3 EPSTEIN BECKER & GREEN, P.C.
4 One California Street, 26th Floor
5 San Francisco, California 94111-5427
6 Telephone: 415.398.3500
7 Facsimile: 415.398.0955
8 Email: sblackburn@ebglaw.com
9 Email: rhulst@ebglaw.com

10 Attorneys for Defendant,
11 BARNES GROUP INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

11 JOHN GALBRAITH,

12 Plaintiff,

13 v.

14 BARNES GROUP, INC., a Delaware
15 corporation, and DOES 1-50,

16 Defendant.

CASE NO. RG 07-336397

**DEFENDANT'S ANSWER TO
PLAINTIFF'S UNVERIFIED
COMPLAINT**

BY FAX

17 Defendant Barnes Group Inc. hereby responds to Plaintiff John Galbraith's Complaint for
18 Damages as follows:

19 **GENERAL DENIAL**

20 Defendant denies each and every allegation in the unverified Complaint in this action,
21 and submits the following affirmative defenses:

22 **FIRST AFFIRMATIVE DEFENSE**

23 **(Failure to State a Cause of Action)**

24 1. As a first affirmative defense, Defendant avers that the Complaint fails to state
25 facts sufficient to constitute a cause of action.

26 **SECOND AFFIRMATIVE DEFENSE**

27 **(No Punitive Damages)**

28 2. As a second affirmative defense, Defendant avers that any acts or omissions to act

1 do not meet the requirements of California Civil Code § 3294 and, accordingly, Plaintiff
2 cannot recover punitive damages.

3 **THIRD AFFIRMATIVE DEFENSE**

4 **(Failure to Mitigate)**

5 3. As a third affirmative defense, Defendant avers on information and belief that
6 Plaintiff's claim for damages is barred, in whole or in part, because Plaintiff has failed to
7 exercise due diligence in an effort to mitigate his damages.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 **(After-Acquired Evidence)**

10 4. As a fourth affirmative defense, Defendant avers that, upon information and
11 belief, Plaintiff has engaged in wrongful conduct during his employment with Defendant, and
12 that conduct provides independent grounds for Plaintiff's termination. As a result, Plaintiff's
13 claim for damages should be reduced or eliminated accordingly.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 **(Good Faith)**

16 5. As a fifth affirmative defense, Defendant avers that any and all conduct about
17 which Plaintiff complains and which is attributed to Defendant was undertaken for fair and
18 honest reasons and was regulated by good faith under circumstances existing at all times
19 mentioned in the Complaint and Defendant did not knowingly or intentionally violate any
20 laws.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 **(Business Necessity)**

23 6. As a sixth affirmative defense, Defendant avers that Plaintiff's claims are barred
24 in whole or in part, on the grounds that Defendant's actions as they affected Plaintiff were
25 undertaken for lawful, substantial, and justifiable business reasons.

SEVENTH AFFIRMATIVE DEFENSE**(Business Justification for Policy At Issue)**

7. As a seventh affirmative defendant, Defendant avers that as to the second cause of action, Plaintiff's claims are barred in whole or in part, on the grounds that it had a legitimate business justification for implementing the policy that allegedly created a disparate impact on its workforce, such that the practice was necessary for the efficient operation of its business.

EIGHTH AFFIRMATIVE DEFENSE**(Avoidable Consequences)**

8. As an eighth affirmative defense, Defendant avers that Defendant published adequate policies to prevent unlawful discrimination within Defendant's workplace, including internal complaint mechanisms which would lead to prompt, effective remedial action in the event of a verified complaint of discrimination or harassment. Plaintiff was aware of these policies but Plaintiff failed or refused to utilize said complaint procedures, and thus allegedly suffered from harm that could have been avoided.

NINTH AFFIRMATIVE DEFENSE**(Estoppel)**

9. As a ninth affirmative defense, Defendant avers that by reason of Plaintiff's own conduct, actions or inaction, he is estopped from asserting the claims set forth in this Complaint and therefore is barred, in whole or in part, from the relief sought therein.

TENTH AFFIRMATIVE DEFENSE**(Unclean Hands)**

10. As a tenth affirmative defense, Defendant avers that the Complaint and each cause of action alleged therein is barred, in whole or in part, by the doctrine of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE**(Waiver)**

11. As an eleventh affirmative defense, Defendant avers that Plaintiff has waived any right to assert the claims in the Complaint and is barred, in whole or in part, from any relief sought therein by virtue of his own conduct, actions or inaction.

TWELFTH AFFIRMATIVE DEFENSE

(Laches)

12. As a twelfth affirmative defense, Defendant avers that Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

THIRTEENTH AFFIRMATIVE DEFENSE

(Lack of Standing)

13. As a thirteenth affirmative defense, Defendant avers that Plaintiff lacks standing to assert a Business and Professions Code § 17200 claim.

FOURTEENTH AFFIRMATIVE DEFENSE

(Adequacy of Remedy at Law)

14. As a fourteenth affirmative defense, Defendant avers that Plaintiff's claims for injunctive relief are barred because an adequate remedy at law is available.

FIFTEENTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

15. As a fifteenth affirmative defense, Defendant avers that Plaintiff's claims are barred for failure to exhaust his administrative remedies under applicable statutes.

SIXTEENTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

16. As a sixteenth affirmative defense, Defendant avers that Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations, including but not limited to California Code of Civil Procedure §§337, 339, and 340; California Government Code § 12960.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Additional Defenses)

17. Defendant hereby gives notice that it intends to rely upon any other defense that may become available or appear during the discovery proceedings in this case, and hereby reserves the right to amend its answer to assert any such defenses.

WHEREFORE, Defendant prays that:

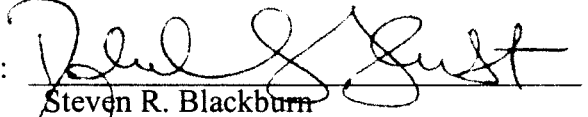
1. Plaintiff take nothing by this action;

2. Defendant be awarded its costs of suit and attorneys' fees herein; and
3. For such other and further relief as the Court deems proper.

DATED: August 23, 2007

EPSTEIN BECKER & GREEN, P.C.

By:


Steven R. Blackburn
Rachel S. Hulst
Attorneys for Defendant
BARNES GROUP INC.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.
2. My business address is One California Street, 26th Floor, San Francisco, California 94111-5427.
3. I served copies of the following documents (specify the exact title of each document served):

DEFENDANT'S ANSWER TO PLAINTIFF'S UNVERIFIED COMPLAINT

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Mark C. Thomas Attorney for Plaintiff
Brownstein Thomas LLP
220 Montgomery Street, Suite 876
San Francisco, CA 94104

Tel: (415)951-4878
Fax: (415)951-4885

5. a. ☐ **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.
- b. ☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (*specify one*):
 - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or
 - (2) ☒ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

- 1 c. ☐ **By overnight delivery.** I enclosed the documents on the date shown below in an
 2 envelope or package provided by an overnight delivery carrier and addressed to the
 3 person at the addresses in item 4. I placed the envelope or package for collection and
 4 overnight delivery at an office or a regularly utilized drop box of the overnight
 5 delivery carrier.
- 6 d. ☐ **By messenger service.** I served the documents on the date shown below by
 7 placing them in an envelope or package addressed to the person on the addresses
 8 listed in item 4 and providing them to a professional messenger service for service. (A
 9 declaration by the messenger must accompany this proof of service or be contained in
 10 the Declaration of Messenger below.)
- 11 e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by
 12 fax transmission, I faxed the documents on the date shown below to the fax
 13 numbers of the persons listed in item 4. No error was reported by the fax machine
 14 that I used.
- 15 f. ☐ **By e-mail or electronic transmission.** Based on an agreement of the parties to
 16 accept service by e-mail or electronic transmission, I caused the documents to be
 17 sent on the date shown below to the e-mail addresses of the persons listed in item 4.
 18 I did not receive within a reasonable time after the transmission any electronic
 19 message or other indication that the transmission was unsuccessful.

20 6. I served the documents by the means described in item 5 on (date): August 23, 2007

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
 22 true and correct.

23 08/23/07

24 DATE

25 VIRGINIA L
 26 (TYPE OR PRINT NAME)

27 (SIGNATURE OF DECLARANT)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My business address is One California Street, 26th Floor, San Francisco, California 94111-5427.
3. I served copies of the following documents (specify the exact title of each document served):

DEFENDANT'S NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (DIVERSITY)

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Mark C. Thomas Attorney for Plaintiff
Brownstein Thomas LLP
220 Montgomery Street, Suite 876
San Francisco, CA 94104

Tel: (415)951-4878
Fax: (415)951-4885

5. a. ☐ **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.
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 - (2) ☒ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

- c. ☐ **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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- 10 f. ☐ **By e-mail or electronic transmission.** Based on an agreement of the parties to
 11 accept service by e-mail or electronic transmission, I caused the documents to be
 12 sent on the date shown below to the e-mail addresses of the persons listed in item 4.
 13 I did not receive within a reasonable time after the transmission any electronic
 14 message or other indication that the transmission was unsuccessful.

15 6. I served the documents by the means described in item 5 on *(date)*: August 24, 2007.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing is
 17 true and correct.

18 08/24/07

19 DATE

20 VERGINIA LI
 21 (TYPE OR PRINT NAME)

22 [Signature]
 23 (SIGNATURE OF DECLARANT)